

38 N.J.R. 1163(a)

NEW JERSEY REGISTER
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VOLUME 38, ISSUE 4

ISSUE DATE: **FEBRUARY** 21, 2006

RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE**

38 N.J.R. 1163(a)

Proposed Amendment: N.J.A.C. 13:80A-3.4

Body Armor Replacement Fund Program

Grant Award Process

Authorized By: Vaughn L. McKoy, Director, Division of Criminal Justice.

Authority: N.J.S.A. 52:17B-4.4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-56.

Submit written comments via overnight or regular mail **only** by 5:00 P.M., April 22, 2006 to:

Heddy Levine-Sabol, Chief
Program Development/Grants Section (Public Comments)
Division of Criminal Justice
PO Box 065
Trenton, New Jersey 08625

The agency proposal follows:

Summary

As a matter of safety to New Jersey law enforcement officers, the Department of Law and Public Safety, Division of Criminal Justice (LPS) is proposing an amendment to the Body Armor Replacement Fund Program rules to permit special grants, under extraordinary circumstances, to assist eligible applicants to prematurely replace body armor above their annual replacement allotment.

This amendment is precipitated by the Department of Justice (DOJ), National Institute of Justice (NIJ) issuing Body Armor Standard Advisory Notice #01-2005, that body armor made with Zylon(R) synthetic fiber are potentially defective. Zylon(R)-based body armor have raised officer safety concerns because some vests have been reported by DOJ to degrade more quickly than forecasted, and that degradation reduces their anti-ballistic capabilities.

LPS administers the State Body Armor Replacement Fund grant program, N.J.S.A. 52:17B-4.4 and N.J.A.C. 13:80A. This program offers eligible State and local law enforcement and correctional agencies grant money to supplement the replacement of their body armor on a five-year cycle. Grant funds are awarded to eligible applicants who file a timely application and who are local law enforcement and correctional agencies, the Division of State Police, the Department of Corrections, the Division of Criminal Justice and the Administrative Office of the Courts to acquire

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body armor for their eligible officers. Eligible agencies receive minimum awards of \$ 500.00. The remaining funds are distributed according to a pro-rata formula based on the number of eligible officers.

Under the authority of the amendment, the Attorney General could direct a portion of the fund to be distributed as a special grant program to eligible agencies as a matter of officer safety and under extraordinary circumstances, notwithstanding the five-year replacement cycle contemplated by the State Body Armor Replacement Fund statute and rules, N.J.S.A. 52:17B-4.4 and N.J.A.C. 13:80A. "Extraordinary circumstances" contemplate a distribution to eligible applicants Statewide when a model of body armor, that is in current use by eligible officers, and is potentially defective and where the eligible applicants can certify that they have insufficient funds to replace these vests.

The Body Armor Replacement Fund was designed to assist eligible law enforcement and correctional agencies to purchase body armor as a matter of officer safety. The proposed amendment falls within the scope of its enabling law since it creates a grant program to purchase replacement body armor when the five-year vest replacement cycle is not practicable.

The Division is providing a 60-day comment period on this proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment will have a positive social impact by creating a special grant program to replace potentially defective body armor. Body armor is intended to provide anti-ballistic and stab-resistant protection to the officer that decreases the likelihood of serious injury or death. The proposed amendment will have a positive social impact on New Jersey by protecting the health and safety of New Jersey law enforcement and correctional officers.

Economic Impact

The proposed amendment will have had a positive economic impact on local law enforcement and correctional agencies, the Division of State Police, the Department of Corrections, the Division of Criminal Justice and the Administrative Office of the Courts by offering a special grant program to eligible agencies to replace potentially defective body armor. The proposed amendment also will have a positive economic impact by reducing the likelihood of serious injury or death, thereby saving health care and insurance costs. The proposed amendment will have little to no adverse economic impact on the public because funding for this program is generated from court imposed fees on motor vehicle and traffic offenders and on forfeitures of bail.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required because the subject matter of the proposed amendment is governed by State law and is not subject to any Federal requirements or standards. The State Body Armor Replacement Fund regulations allow eligible agencies to purchase body armor that meets federal standards.

Jobs Impact

The proposed amendment is not expected to result in the generation or loss of jobs in the State.

Agriculture Industry Impact

The proposed amendment will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A Regulatory Flexibility Analysis is not required because the proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses. The proposed amendment applies only to those eligible law enforcement agencies applying for and receiving a special grant. The proposed amendment does not impact small businesses.

Smart Growth Impact

The proposed amendment will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (addition indicated in boldface **thus**):

13:80A-3.4 Grant award process

(a)-(f) (No change.)

(g) The rules of this chapter may be relaxed by the Attorney General under extraordinary circumstances and as a matter of officer safety, to authorize the distribution of a portion of the Fund as special grant funds to assist eligible applicants in the premature replacement of body armor above their eligible applicants' annual replacement allotments. Extraordinary circumstances involve a Statewide distribution to eligible applicants when a model of body armor, that is in current use by eligible officers, and is potentially defective and where the eligible applicant can certify that it has insufficient funds to replace these vests. Based on the availability of special grant funds, each eligible applicant, within the time frames set forth by the Director, may apply for a special fund award.

1. The special grant award to an eligible applicant shall be determined using the following formula:

(eligible applicant's number of questioned body armor purchased that is in current use) divided by (approximate total number of eligible applicants' number of questioned body armor that is in current use) times (available special grant funds).

2. After each eligible agency is notified and given an opportunity to apply for a special grant within the time frames set forth by the Director, any money remaining in the special grant fund shall revert back into the Fund.